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DEPARTMENT OF STATE
MEMORANDUM OF CONVERSATION

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Reviewed by:
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Date: Wednesday, May 24, 1978

Subject: Detainees, Disappearances and other Human Rights Concerns

Participants: General Albano E. Harguindeguy, Minister of Interior
Juan Carlos Arlia, Ministry of Foreign Affairs
David D. Newsom, Undersecretary of State for Political Affairs
Ambassador Raul Castro
Fernando Rondon
William H. Hallman

UNITED STATES DEPARTMENT OF STATE
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Mr. Newsom outlined the purpose of his visit: to examine the issues which lie between Argentina and the United States. His coming to Buenos Aires, he said, is a token of the importance the U.S. attaches to its relations with Argentina.

We understand Argentina's difficult recent history, and of the terrorism the country faced, Mr. Newsom said. We appreciate too gains the Argentine government has made -- in the economy, in conquering terrorism, and in such human rights steps as an amnesty at Christmas and progress in the Timerman, Deutsch and other cases. We understand the importance of the right of option program. What would be helpful now, Mr. Newsom explained, is to hear what further can be expected -- in terms, for example, of persons to be released and allowed to leave under Right of Option procedures, and of what steps can be taken in the issue of disappearances.

The Minister of Interior began his reply by explaining how Argentine law had been inadequate to withstand the terrorist onslaught. Laws framed in the 1870's were insufficient against the violence, and extraordinary measures had to be taken.

A relief measure was found in Article 23 of Argentina's Constitution, which provides for a "State of Siege". Under this the "poder ejecutivo nacional" (PEN) is provided authority for detaining persons indicated by intelligence sources to be of danger to the state, and of holding them although evidence sufficient to convict them in a court of law is lacking.

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Right of Option is a means of releasing these detainees, Harguindeguy said, but it had to be applied under regulations: It was not possible to release persons who would travel abroad (the Minister cited as examples to France, Spain, Italy and/or Mexico) and engage in activities dangerous to the Argentine state. The Minister also cited that states who receive such persons have themselves been highly critical of Argentina's human rights record. For this reason the Right of Option Committee, which the Minister heads, had had to proceed very carefully.

The security of the state was of primary concern, the Minister said, but there was another restraint: Persons who had been sentenced may not leave under the option right unless they have served two thirds of their sentence, and then only with the permission of a judge.

Mr. Newsom noted that no one in the United States expects Argentina to release terrorists, but what, he asked would be the fate of the present detainees?

General Harguindeguy said that a great many of them would remain imprisoned until all vestiges of subversion were eradicated. He went on to talk about the lack of usual guarantees of war -- guarantees which, in the case of terrorists, it simply was not possible to maintain. Truces, ceasefires, etc. had not been possible. No rules of war could be observed which gave terrorism a status, like that of enemy nations under rules of war. He referred again to what Argentine subversives had done against the country while abroad. (General Harguindeguy mentioned Italy again, citing apparent respectability accorded terrorists in their appearance with Italian Deputies and Senators. He mentioned a belief that Aldo Moro had had contact with Argentines this government believes are subversives.)

At some point, the Minister said, it will be possible to get on with trials -- military trials for those accused of crimes against the military forces, civil trials for those accused of attacking civilian targets. He pointed out that also under the PEN the President has wide discretion to dispose of cases.

Mr. Newsom, citing passions and animosities created in a situation of crisis, then asked about disappearances. Many